



# United States Department of the Interior



BUREAU OF LAND MANAGEMENT  
Alaska State Office  
222 West Seventh Avenue, #13  
Anchorage, Alaska 99513-7504  
[www.blm.gov/alaska](http://www.blm.gov/alaska)

In Reply Refer To:  
AA-8279 (2561)  
(944) cag

July 26, 2024

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

RECEIVED

JUL 29 2024

## NOTICE

Ellamae A. Chaney  
P.O. Box 13  
Dillingham, Alaska 99576-0013

:  
:  
:

AA-8279 WINNER & ASSOCIATES  
Native Allotment Application

### Proposed Correction of Certificate of Allotment No. 50-92-0680

On July 14, 2023, Kenneth Shade filed a request to the Bureau of Land Management (BLM) to correct your Certificate of Allotment based on his claim that BLM failed to make the Certificate subject to a right of way for the road to his father's allotment. The BLM has reviewed the record and as shown below, has determined that Certificate of Allotment issued for Ellamae A. Chaney's Native allotment application AA-8279 is inaccurate and requires correction. The BLM may initiate and make corrections in patents or other documents<sup>1</sup> of conveyance of its own motion if all existing owners agree.<sup>2</sup>

This notice will serve to inform you that Certificate of Allotment 50-92-0680 was issued without properly making it subject to the pre-existing and nonexclusive use road.

#### Background information:

- The road is visible in an aerial photograph dated 1962 and connects the main village of Dillingham with Shannon Lake and Henry E. Shade's home on his Native allotment.
- There is no record that the BLM granted a right of way for the road.

<sup>1</sup> 43 U.S.C. § 1746.

<sup>2</sup> 43 CFR § 1865.3. The authorized officer may initiate and make corrections in patents or other documents of conveyance on his/her own motion, if all existing owners agree.

- Ellamae A. Chaney's application and map was received by BLM on Dec. 7, 1972. The survey plat (map) submitted along with the application clearly depicts a road going from the Lake Aleknagik Road to Lot 7, USS 4982, and crossing the lands claimed by Ellamae A. Chaney. Ellamae A. Chaney indicated in her application she used the land from September to March each year starting in 1965.
- The BLM issue a letter October 25, 1974, requesting additional evidence of Ellamae A. Chaney's use and occupancy of the land and verification of when she started using the land.
- A letter from Henry Shade to the Bureau of Indian Affairs (BIA) dated June 7, 1984, gives the history of the road. The first indication of the road's existence was in 1957.
- A 1984 affidavit from Danial Deihl, Realty Specialist with the BIA, in reference to his telephone conversations with Ellamae A. Chaney's husband, Joe Chaney states in part: "Joe Chaney admitted that the road through Ellamae's allotment was there prior to Ellamae ever staking the land."
- The BLM State Director replied to Senator Ted Stevens on July 17, 1984, pertaining to an inquiry of Ellamae A. Chaney's application and the road. The letter states in part: "...if her allotment is determined to be valid, the Certificate will contain a reservation for the pre-existing road. The reservation is conditioned upon the fact that Mrs. Chaney has not enjoyed "potentially exclusive" use of the land within the roadway."
- A field examination of the land applied for was conducted on May 28, 1986. The report dated June 30, 1986, and approved July 1, 1986, mentions the road and shows the road in the pictures taken during the examination.

The report states on page 1, part A, question 4

Access to tract by applicant: *By dirt road from the Dillingham Lake Aleknagah Road. The dirt road runs through the parcel to Shannon Lake.*

The report goes on to state on page 2, part B, question 2

Are there any conflicts to applicant's exclusive use of land? (Explain):

*According to a BIA report in the casefile, the road that runs through the parcel was in existence prior to Ellamae Chaney's entry on the lands. There are houses adjoining the parcel that predate the applicant's house.*

The BIA report mentioned in the field report is the 1984 affidavit of Danial Deihl, Realty Specialist with the BIA.

- Ellamae's application was legislatively approved on July 16, 1992. ANILCA Sec. 905(a)(1) Subject to valid existing rights, all Alaska Native allotment applications made pursuant to the Act of May 17, 1906 (34 Stat. 197, as amended) which were pending before the Department of the Interior on or before December 18, 1971, and which describe either land that was unreserved on December 13, 1968, or land within the National Petroleum Reserve-Alaska (then identified as Naval Petroleum Reserve No. 4) are hereby approved on the one hundred and eightieth day following the effective date of this Act, except where provided otherwise by paragraph (3), (4), (5), or (6) of this

subsection, or where the land description of the allotment must be adjusted pursuant to subsection (b) of this section, in which cases approval pursuant to the terms of this subsection shall be effective at the time the adjustment becomes final. The Secretary shall cause allotments approved pursuant to this section to be surveyed and shall issue trust certificates, therefore.

- Certificate of Allotment (COA) No. 50-92-0680 was issued to Ellamae A. Chaney on September 25, 1992. The COA was not made subject to the pre-existing and nonexclusive use road.
- Kenneth Shade, heir of Henry Shade, through his attorney submitted a letter to BLM on July 14, 2023, requesting Certificate of Allotment No. 50-92-0680, be corrected pursuant to section 306 of FLPMA.
  - FLPMA Sec. 306 (43 U.S.C. 1746) The Secretary may correct patents or documents of conveyance issued pursuant to section 208 of this Act or to other Acts relating to the disposal of public lands where necessary in order to eliminate errors. In addition, the Secretary may make corrections of errors in any documents of conveyance which have heretofore been issued by the Federal Government to dispose of public lands.
  - 43 CFR § 1865.3. The authorized officer may initiate and make corrections in patents or other documents of conveyance on his/her own motion, if all exiting owners agree.

Based on the foregoing facts, the COA issued to Ellamae A. Chaney should have stated it was subject to the pre-existing and nonexclusive use ten (10) foot road that crosses the lands applied for and conveyed to her. The road was in existence before Ellamae's independent use and occupancy of the land started.

If you disagree with the factual or legal basis for this determination or with the description of the right of way, you may file a response within 30 days of receipt of this Notice.

If you agree to correct your Certificate of Allotment, please sign the enclosed consent form to acknowledge your consent to correct the Certificate of Allotment and return the consent form along with the original Certificate of Allotment in the self-addressed envelope provided. If you are unable to return the original Certificate of Allotment, please provide the reason in writing.

The BLM will issue a corrected Certificate of Allotment upon receipt of the form and the original Certificate of Allotment or written reason of why it cannot be returned. Enclosed is a draft of the Certificate of Allotment with the corrections.

For Bureau of Indian Affairs counseling, please contact the following:

Bristol Bay Native Association  
P.O. Box 310  
Dillingham, Alaska 99576-0310

Telephone: 907-842-5257

*/s/ Candy A. Grimes*

Candy A. Grimes  
Land Transfer Resolution Specialist  
Branch of Adjudication

Enclosures:

Consent to Correct Form  
Copy of recorded Certificate of Allotment 50-92-0680  
Draft Corrected Certificate of Allotment  
Aerial Photo dated 1962  
Application dated 12/7/1972  
Letter dated 10/25/1974  
Affidavits dated 1975  
Letter dated 6/7/1984  
Affidavit dated 1984  
Letter 7/17/1984  
Field Report  
Letter 7/14/2023  
Self-Addressed Envelope

Copy furnished to:

Bristol Bay Native Association (CM-RRR)  
P.O. Box 310  
Dillingham, Alaska 99576-0310

Roger W. DuBrock, Esq. (CM-RRR)  
Nathaniel Amdur-Clark, Esq.  
K. Amanda Saunders, Esq.  
for Ellamae Chaney  
Sonosky, Chambers, Sachse  
Miller and Monkman LLP  
510 L Street, Suite 310  
Anchorage, Alaska 99501-1952

Kenneth H. Shade (CM-RRR)  
P.O. Box 1225  
Dillingham, Alaska 99576-1225

Russell L. Winner, Esq. (CM-RRR)  
for Kenneth H. Shade  
Winner & Associates, P.C.  
900 West fifth Avenue, Suite 700  
Anchorage, Alaska 99501-2029

Bureau of Indian Affairs  
Regional Realty Office  
3601 C Street, Suite 1200  
Anchorage, Alaska 99503-5947

Bureau of Indian Affairs  
Alaska Title Services Center  
3601 C Street, Suite 1200  
Anchorage, Alaska 99503-5947

State of Alaska  
Department of Natural Resources  
Realty Services Section  
550 West Seventh Avenue, Suite 1050A  
Anchorage, Alaska 99501-3579

State of Alaska  
Department of Fish and Game  
Division of Wildlife Conservation  
Attn: Marla Carter  
333 Raspberry Road  
Anchorage, Alaska 99518-1599

Records (944)

Chief, Branch of Adjudication (944)